UNITED
NATIONS

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Economic and Social Council

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GENERAL

E/CN.4/Sub.2/1989/27
6 July 1989

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection of
Minorities
Forty-first session
Item 9 (a) of the provisional agenda

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Report on the practice of administrative detention, submitted by Mr. Louis Joinet

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I. TERMS OF REFERENCE

1. In its resolution 1985/16 of 11 March 1985, the Commission on Human Rights requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to analyse available information about the practice of administrative detention and to make recommendations regarding its use.

2. At the thirty-eighth session of the Sub-Commission, the sessional Working Group on Detention had before it information on administrative detention received from non-governmental organizations in consultative status with the Economic and Social Council (hereinafter referred to as "non-governmental organizations"). According to this information, in various countries, hundreds and, in some cases, thousands of persons and their families were being subjected to detention as an administrative measure, without any arrest warrant, charge or trial by an independent judicial body, and these persons were, often during states of emergency, being held incommunicado for several months, or years, or even indefinitely, without the services of a lawyer or the possibility of exercising their right of defence.

3. The participants in the debate of the Working Group on Detention agreed that a preliminary analysis of problems of administrative detention was necessary. They began to consider various possible definitions and forms of administrative detention, as well as the sources of information that might be used. It was felt that an explanatory paper suggesting what methodology could be used to carry out such a study would be useful and that a member of the Sub-Commission could be appointed for that purpose. The drafting of a working paper was entrusted to Mr. Louis Joinet, who submitted a contribution to a methodological approach regarding administrative detention (E/CN.4/Sub.2/1985/WG.1/WP.5) to the Working Group.

4. In its decision 1985/110 of 29 August 1985, the Sub-Commission requested Mr. Joinet to prepare, for its next session, an explanatory paper suggesting to the Sub-Commission procedures by which it might carry out its responsibilities under Commission on Human Rights resolution 1985/16 concerning administrative detention.

5. In accordance with decision 1985/110, Mr. Joinet submitted to the Sub-Commission, at its thirty-ninth session, an explanatory paper on the practice of administrative detention (E/CN.4/Sub.2/1987/16). According to the synopsis of material received from non-governmental organizations prepared by the Secretariat, administrative detention was reported to be common practice in more than 30 countries, where thousands of persons were said to be held in detention without charge or trial, merely by executive decision, either because they were viewed as a potential threat to national security or public order or because they had asserted their fundamental rights by peaceful means. At the same session, the Sub-Commission adopted resolution 1987/24 of 3 September 1987 in which it requested its rapporteur, Mr. Joinet, to draft a questionnaire and send it to all Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations with a view to obtaining further information and views relating to the matters dealt with in his explanatory paper; and to present to the Sub-Commission, at its fortieth session, further analysis of the matters dealt with in his explanatory paper, on the basis, inter alia, of the answers to its questionnaire.

6. In its resolution 1988/45 of 8 March 1988, the Commission on Human Rights noted with concern that, in some cases, the administrative detention procedure was subject to abuse. Bearing in mind that, in order to prevent any abuse, administrative detention must be applied, particularly with regard to duration, in clearly defined conditions laid down by national laws, in accordance with the rules of international law, the Commission took note of the explanatory paper and invited all Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations concerned to assist the rapporteur in discharging his mandate by forwarding their answers to the questionnaire. The Commission requested the Sub-Commission to consider, as from its fortieth session, the analysis presented by its rapporteur and to make any proposals it deemed necessary on the question to the Commission at its forty-fourth session.

7. At its fortieth session, the Sub-Commission and its Working Group on Detention had before them an analysis of the practice of administrative detention prepared by Mr. Joinet on the basis, inter alia, of the answers received to the questionnaires sent to Governments, specialized agencies and regional intergovernmental organizations, as well as to non-governmental organizations (E/CN.4/Sub.2/1988/12). The Sub-Commission also had before it a synopsis of material received from non-governmental organizations prepared by the Secretariat, from which it emerged that in some countries persons were being subjected to administrative detention without specific charges being brought against them and that some were being held in very arduous conditions far from consistent with the Standard Minimum Rules for the Treatment of Prisoners. The Sub-Commission, by its decision 1988/110 of 1 September 1988, requested the rapporteur to present his report as a matter of priority to the Sub-Commission at its forty-first session.

8. In its resolution 1989/38 of 6 March 1989, the Commission took note of the analysis submitted by the rapporteur to the Sub-Commission. It requested the Sub-Commission to consider, as from its forty-first session, the report submitted by Mr. Joinet and to make any proposals it deemed necessary on the question to the Commission. It also decided to continue its consideration of this question at its forty-sixth session, in 1990, under the agenda item "Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-first session".

II. SOURCES OF INFORMATION

A. Information provided by Governments

9. The questionnaire which the Sub-Commission, by its resolution 1987/24, had requested the rapporteur to prepare was sent on 5 February 1988 to all Governments. Thirty-two Governments communicated information to the rapporteur (see annex I, A).

10. In addition to their replies to the questionnaire, some Governments provided the rapporteur with detailed information concerning their legislation on the subject (see annex I, A).

B. Information from other reliable sources

11. The rapporteur sent questionnaires to the competent United Nations bodies, specialized agencies and regional intergovernmental organizations. Six of these provided information to the rapporteur (see annex I, C, D and E).

12. Ten non-governmental organizations, as well as some organizations not in consultative status with the Economic and Social Council, provided the rapporteur with information and/or communicated relevant documents to him (annex I, F, G).

13. The Rapporteur consulted relevant constitutional, legal and administrative provisions of other States available in the United Nations library in Secretariat reports and especially the information communicated by Governments, United Nations bodies, specialized agencies, regional intergovernmental organizations and non-governmental organizations within the framework of the annual consideration by the Sub-Commission of its agenda item concerning the question of the human rights of persons subjected to any form of detention or imprisonment. The rapporteur also examined the reports of the Working Group on Enforced or Involuntary Disappearances, the reports of the Special Rapporteur on summary or arbitrary executions and of the Special Rapporteur on torture, the reports of the Special Rapporteur on states of emergency and the reports of the Secretary-General on restraints on the use of force by law enforcement officials and military personnel, the fact-finding reports on the human rights situation in certain countries initiated by the Commission on Human Rights (Afghanistan, Chile, Cuba, Cyprus, El Salvador, Guatemala, Haiti, Islamic Republic of Iran, southern Africa), as well as the relevant information contained in the periodic reports submitted to the Human Rights Committee by States parties under the International Covenant on Civil and Political Rights (hereinafter referred to as "the Covenant"), the questions raised by the members of the Committee and the replies to the supplementary reports communicated by States parties on that subject, together with the Committee's general comments on article 9 of the Covenant regarding detention.

14. The annex contains a comparative table of the relevant provisions of the main international instruments concerned, as well as a list of other international instruments of relevance (annex II, A and B).

III. SCOPE OF THE STUDY

15. Most countries, including those which regard themselves as being among the most democratic, provide in their national legislation for detention where the power of decision lies with the administrative authority alone. However, it is not enough for a domestic legal provision to authorize administrative detention; the authorization must be consistent with the rules set out in the international instruments. Detention measures may nevertheless be voidable or may be applied in an arbitrary way. It is thus not so much the principle of administrative detention that is at issue as its régime, the safeguards provided for by law and the conformity of such safeguards with international rules.

A. Terminology used

16. The terms used in the international instruments and national laws are: "detention", "administrative detention", "detention without charge or trial", "administrative internment", "rétention administrative", "mise aux arrêts", "house arrest", "attachment", "ministerial detention", "a disposición del poder ejecutivo nacional", "pre-trial detention" and "preventive detention". Despite the alternate use, in French, of the terms "détention administrative" (Commission on Human Rights resolutions 1985/1, 1986/1, 1987/2, 1988/1 and 1989/2A on the question of the violation of human rights in the occupied Arab territories, including Palestine) and "internement administratif" (Sub-Commission resolutions 1987/24, 1988/10 and 1988/45; Commission resolution 1989/38), preference will be given in the French text of this study to the term "détention administrative". The adoption of this terminology, which corresponds to the English term "administrative detention" and to the Spanish term "detención administrativa", has the advantage of avoiding any conflict of interpretation as regards the scope of the relevant provisions of the international rules adopted, notably by the United Nations, to protect the rights of persons subjected to any form of detention, in particular the "Standard Minimum Rules for the Treatment of Prisoners" and the "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment" (hereinafter referred to as the "Body of Principles").

17. For the purposes of this study, detention is considered as "administrative detention" if, de jure and/or de facto, it has been ordered by the executive and the power of decision rests solely with the administrative or ministerial authority, even if a remedy a posteriori does exist in the courts against such a decision. The courts are then responsible only for considering the lawfulness of this decision and/or its proper enforcement, but not for taking the decision itself.

18. This study therefore excludes situations of detention in which the absence of a charge or the excessive length of detention without trial results not from the administrative nature of the procedure, but from irregularities committed in the course of judicial procedure.

19. Detention in custody, whereby the police holds in its premises any person who, for the purposes of a judicial inquiry, must remain at the disposal of the police, is also excluded as long as custody is effected under the responsibility of a judge and does not exceed a period such that, with inadequate judicial supervision, it eventually resembles a situation of administrative detention. This appears to be the situation in one country, where custody may reach or even exceed 23 days without charge or trial.

B. Typology and purposes of administrative detention

20. Detention within the framework of judicial proceedure should be the rule and administrative detention the exception. Yet, according to one non-governmental organization, instead of constituting an exceptional measure subject to regular checks, administrative detention has in many countries become an instrument for the long-term suppression of all dissidence, for putting an end to criticism and protests and for eliminating political opposition, particularly in times of emergency. The authorities of one country have thus adopted the practice of arresting all the members of a community who in their view, are potential militants, even if they have

committed no offence. In another country, 106 persons were detained by order of the Minister of the Interior in October 1987; 32 of them were still in detention in July 1988. According to some persons dealing with the protection of human rights, the internal security act was applied in an abusive manner in that country and the Government was exploiting racial tensions in order to silence criticism and distract attention from domestic political problems.

21. The scope of this study is limited to the following categories of administrative detention: threats to public order and to State security, measures relating to the status of foreigners, disciplinary measures, measures to combat social maladjustment and detention for the purposes of political re-education. It does not include the administrative detention of mentally-ill persons because of the establishment by the Commission on Human Rights, by its resolution 1989/40 of 6 March 1989, of an open-ended working group to examine the draft body of principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder, adopted by the Sub-Commission in its resolution 1988/28 of 1 September 1988.

1. Threats to public order and to State security

(a) Situation of civilian populations during armed conflicts

22. This heading covers the coercive measures which parties to a conflict may be obliged to take. The internment or placing in assigned residence of persons may be ordered only if the security of the Detaining Power makes it absolutely necessary (art. 42, Fourth Geneva Convention of 1949, sect. II). Such action shall be reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose (idem., art. 43). If the decision is maintained, the case shall be reconsidered at least twice yearly with a view to the favourable amendment of the initial decision, if circumstances permit.

23. Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of the persons who have been interned or subjected to assigned residence, or who have been released, and shall notify it of the decisions of the courts or boards mentioned above (idem., art. 43, para. 2). If any person voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be (idem., art. 42, para. 2). This category also includes cases of internment in the interest of civilians residing in the country at the time of the armed conflict in order to remove them, for example, from areas of bombardment.

(b) Emergency situations

24. A number of countries resort to emergency measures in the event of threats to public order or to the security of the State. The Special Rapporteur on states of emergency, Mr. Leandro Despouy, observed that some 40 States had introduced states of emergency between August 1987 and November 1988. He also noted that the most serious violations of the human rights of detained persons most often occur during so-called emergency situations. State of emergency provisions usually allow the executive power to order the arrest and administrative detention of any person suspected of being a threat to security or public order. In the case of administrative

detention, the courts have no power of prior authorization of an arrest, the grounds for which are too often formulated in vague and broad terms. It is therefore particularly important that the lawfulness of the administrative detention and treatment of detainees should be determined by a court within a few days of the arrest.

25. The legislation of one country practising apartheid, in which a state of emergency was proclaimed at the national level in June 1986 and extended each year thereafter, empowers all members of the police forces and other law enforcement officials to arrest any persons suspected of constituting a threat to public order without an arrest warrant and to hold such persons incommunicado for an initial period of 14 days, which may be extended indefinitely by order of the Minister of the Interior. In May 1988, the total number of persons detained under the state of emergency could be estimated at more than 5,000, including many children below the age of 16.

26. Reference was also made to the case of a population which had been subjected to administrative detention before being expelled from its homeland.

(c) Internal unrest and tensions

27. This category essentially concerns political offences and presupposes serious internal unrest and tensions. This latter condition must not be side-stepped in practice.

28. In one country, hundreds of persons have been arrested on political grounds since 1980 under a 1961 decree-law providing that persons suspected of involvement in so-called subversive activities may be detained for more than five days if they are subject to a detention order approved by the head of State. Such persons can then in principle have their case studied by a special commission, but in fact no file has ever been examined.

2. Measures relating to the status of foreigners

29. The main grounds invoked by the receiving authorities to carry out administrative detentions are: the clandestine entry or unlawful sojourn of foreigners beyond the prescribed period, the execution of refoulement or expulsion measures, the execution of administrative formalities on entry into the country and regrouping, in the case of massive inflows of refugees or displaced persons, especially in rural areas, in settlement zones, together with various restrictions on freedom of movement.

30. When expulsion measures are executed during immigration control, the person about to be expelled is generally kept in secure premises, in particular while awaiting a receiving country or even transport. These premises may be located at frontiers (especially in ports and airports), for use in cases of refoulement when a person presents himself for entry into the national territory.

31. The Human Rights Commission of one country recommended in 1985 that the practice of informing arrested persons, in a language they understand, of their right to be brought before the competent authority within 48 hours of their arrest should always be respected.

32. Measures taken to neutralize temporarily the political activities of foreigners consist in placing them under house arrest or in a hotel or a public establishment, etc. under more or less close surveillance by the police. This measure is taken for preventive reasons, for example, during a visit by a foreign head of State or during an international conference.

33. With regard to extradition measures, the legislation of some countries provides for placing an extraditable person at the disposal of the executive authority pending a final decision.

34. In its conclusion 44 (XXXVII), adopted in 1986, the Executive Committee of the Office of the United Nations High Commissioner for Refugees (UNHCR) laid down the minimum rules governing the detention of refugees and asylum-seekers. Large numbers of refugees and asylum-seekers are currently the subject of detention or similar restrictive measures by reason of their illegal entry or presence in search of asylum. According to UNHCR, a detention order should be issued only where necessary and only on grounds prescribed by the law to verify identity; to determine the elements on which the claim to refugee status or asylum is based; or to deal with cases where asylum-seekers and refugees have destroyed their travel and/or identity documents, sometimes to mislead the authorities of the State in which they are attempting to obtain refugee status, or have used fraudulent documents because they were forced to leave a country secretly because they were being persecuted. National legislation and administrative practice should make a distinction between the situation of refugees and asylum-seekers and that of other aliens (idem., subpara. (d)). In order to avoid unjustified or unduly prolonged administrative detention, fair and expeditious procedures should be established for determining refugee status or granting asylum (idem., subpara. (c)). The detention measures taken in respect of them should be subject to review (idem., subpara. (e)) and their conditions of detention should be humane; whenever possible, asylum-seekers and refugees should not be accommodated with persons detained as common criminals and should not be located in areas where their physical safety is endangered. They should also be provided with the opportunity to contact UNHCR (in "Conclusions on the international protection of refugees adopted by the Executive Committee of the UNHCR Programme", Geneva, 1988, pp. 96-97).

35. Since June 1988, almost 10,000 newly arrived refugees in one country were classified as illegal immigrants because they were unable to prove that they had political reasons. They were imprisoned in three closed camps where conditions of detention are extremely difficult and "prisoners" were allegedly beaten by the authorities. These allegations were subsequently confirmed by a commission of inquiry appointed by the Government. Furthermore, close to 15,000 people who have been recognized as refugees and are awaiting resettlement abroad were apparently detained in camps which are much like prisons.

36. Stowaway asylum-seekers often find themselves in a vulnerable situation in need of international protection and durable solutions because there are at present no general and internationally recognized rules dealing specifically with stowaway asylum-seekers (decision and conclusions of the Executive Committee of UNHCR on the international protection of refugees, adopted in 1988, "Stowaway asylum-seekers" para. 25, first and fourth subparas., of the final report of the thirty-ninth session of the Executive Committee). Special attention should be given to their needs, including arranging for

their disembarkation, determining their refugee status and, whenever required, providing them with a durable solution (idem., third para.); they should also be allowed to disembark at the first port of call (idem., second para.).

3. Disciplinary measures

37. These are essentially measures taken by the competent authority to punish indiscipline in the army (solitary confinement, confinement to barracks, assignment to a disciplinary unit, etc.) or in the course of a prison sentence (disciplinary confinement). According to the European Commission of Human Rights, the latter measure constitutes a change in conditions of detention and not a different form of deprivation of freedom.

38. According to the prison regulations of one country, the prison director can impose the punishment of solitary confinement in a disciplinary cell and a diet of bread and water for a period of not more than three days. In another country, a detainee who is placed in a punishment cell must receive daily visits from a doctor, who must report to the director if he considers that such confinement should be ended for reasons of physical or mental health.

4. Measures to combat social maladjustment

39. Some persons who are extremely poor or socially maladjusted are also subjected to administrative detention. These are either preventive measures in respect of minors at risk or measures taken in pursuance of laws on vagrancy designed for the "protection of society". This category is important, since the economic crisis (and hence unemployment) is likely to cause impoverishment, with the result that some unemployed persons may gradually be reduced to a state of vagrancy. The European Court of Human Rights ruled on this question in its judgements of 18 June 1971 (para. 68) and 6 November 1980 (paras. 96-98). In one country, the law on the prevention of prostitution provides for administrative detention or placement in a guidance centre.

5. Administrative detention for purposes of "re-education"

40. In some of the cases brought to the rapporteur's attention, administrative detention is used for purposes of "compulsory re-education". In one country, in 1975 and 1976, between 10,000 and 15,000 persons were allegedly detained on such grounds and it may well be that between 6,000 to 7,000 of them are still being made to undergo this type of "re-education". In another country, which has been a party to the Covenant since 1982, thousands of persons have allegedly been detained since 1975 in "re-education" camps; according to the official figures provided by the Government of the country in question, 7,000 persons were still subject to such measures in March 1985. This Government justifies its action by claiming that it is pursuing a humane policy by re-educating the detainees rather than bringing them to trial, allegedly for the purpose of helping them adapt to the new society.

41. The characteristics of this form of detention that are most frequently encountered are the following: placement in closed camps, forced manual labour, compulsory re-education based on self-criticism and detention without any prospect of trial or even a release date, since the length of detention depends entirely on the "progress" made.

42. One non-governmental organization composed of representatives of national parliaments rightly questioned the criteria and grounds for judging such "progress". It also criticized the fact that there were legal provisions authorizing a Government to order the detention of a member of parliament on the grounds that his activities and the expression of his views as a parliamentarian would endanger or threaten to endanger public security; this organization also expressed deep concern about the fact that, under a ministerial decision, parliamentarians could be deprived of the opportunity to carry out the functions entrusted to them by their constituents and that such a serious measure, which normally fell within the purview of the judicial power, could result from an administrative decision, without any possibility of appeal.

43. At the beginning of this report, it was stressed that international human rights law allowed for administrative detention in exceptional cases and that it was thus not so much the principle of that form of detention which was at issue as its régime, its safeguards and the conformity of such safeguards with international rules. That observation does however, not apply in the present case: it is the very principle of administrative detention with a view to compulsory re-education which should be prohibited because of its purpose. It is a direct violation of article 18 of the Covenant, which provides that everyone shall have the right to freedom of thought or, in other words, the belief of his choice and that no one shall be subject to coercion which would impair his freedom to have or to adopt such a belief. In addition to this fundamental violation, there is a flagrant violation of article 14, paragraph 3 (g), of the Covenant, which states that no one may be compelled to testify against himself or to confess guilt.

IV. LEGAL FRAMEWORK OF ADMINISTRATIVE DETENTION

A. Legal basis

44. The legal basis for administrative detention varies from one legal system to another. There may be constitutional or legislative provisions, which are the most common, although, in many cases, such provisions are made by delegation of legislative power (decree-laws, orders, etc.), as well as regulatory provisions (decrees or decisions) taken directly by the executive power. In some cases, straightforward directives are involved (for example, a directive from the head of State delegating his powers to the police, etc.) or there may be no legal provision whatever. In some countries, particularly in those where the Government has to deal with an uprising, administrative detention is not practised in accordance with any formal laws, but is a regular and officially recognized practice of the military authorities.

45. The right to liberty and safety is an inalienable right which the individual himself cannot renounce and situations in which a person may be deprived of his or her liberty must therefore be subject to interpretation which is all the more restrictive, since the decision in question falls within the province of the executive authority. In the absence of any rules or regulations on administrative detention, analogies have to be established on the basis of the system of judicial detention.

46. According to one non-governmental organization, the much too general nature of the legal provisions in one country allows for the detention of persons who are allegedly engaged in vaguely defined activities which might potentially include lawful or unlawful acts relating, in particular, to State security and public order.

B. Authorities empowered to issue a detention order

47. With regard to the prevention and suppression of public disturbances, decisions are taken by authorities exercising either political or administrative responsibilities for the maintenance of order and, in particular, by the Head of State (President of the Republic, Emir, King), the Prime Minister or President of the Council, the Council of Ministers, the Minister of Defence, the Interior or Territorial Administration, the Consultative Commission, a representative of the Prosecutor's Department, a representative of the police, the army or the security forces or members of the prison staff.

48. Administrative detention therefore gives broad and often discretionary powers to the administrative authorities, which can use them merely on the basis of presumptions if they deem it necessary and are not bound to give the detainee any reasons for their decision. The fact that in some countries persons are detained simply on the order of a representative of the police or security forces leaves them wide open to all kinds of abuses, especially if they are imprisoned because of their opposition to the Government.

49. Consequently, according to the information communicated to the United Nations by a non-governmental organization, young people were allegedly harassed by patrols of revolutionary guards who arrest and check anyone they find suspicious. These mass arrests apparently take place without any legal supervision.

C. Length of detention

50. The following periods of detention have been identified:

Undetermined period;

Fixed period, varying from 15 days to 2 years, but renewable indefinitely; in some cases, renewal tends to be systematic, resulting in a virtually unlimited period (for example, in one country, the initial period of 2 years was renewed 7 to 10 times, resulting in 14 to 20 years of detention);

Predetermined maximum period ranging from 6 hours to 3 years, depending on the country;

Complex cases where the maximum period depends on the status of the decision-making authority.

D. Status and condition of the premises of detention

51. Under only six national legislations is provision made for specific premises for administrative detainees. In the other cases, arrangements are extremely varied: military or police premises, police station cellars, court

cells, prisons, specially designed centres or camps, farms or State enterprises. In one case, the requirement is simply "any place considered appropriate".

52. The Body of Principles specifies, with regard to the condition of premises, that places of detention shall be visited regularly by qualified and experienced persons (princ. 29, paras. 1 and 2).

E. The rights of administrative detainees

53. Administrative detainees should in principle enjoy the same rights as other detainees and, in particular, benefit from the Body of Principles, which provides for even more legal safeguards than the Standard Minimum Rules for the Treatment of Prisoners. According to one non-governmental organization, however, conditions of administrative detention in some countries are absolutely contrary to most of those principles.

54. Article 10, paragraph 1, of the Covenant, provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Committee on Human Rights has stressed that paragraph 1 of this article applies not only to accused persons (para. 2) and prisoners (para. 3) but also to all persons deprived of their liberty as indicated by its wording, its context (in particular the proximity of art. 9, para. 1, which deals with all types of deprivation of liberty) and the purpose for which it is intended. Furthermore, this article supplements article 7 of the Covenant on the prohibition of torture and cruel, inhuman or degrading treatment or punishment. Treatment with humanity and with respect for the dignity of all persons deprived of their liberty is a fundamental rule of a universal character which cannot depend on the available material resources.

55. There are divergent views on the characterization of some forms of isolation as cruel, inhuman or degrading treatment or punishment or as torture, which are prohibited by article 7 of the Covenant. Only one thing is certain at the international level: according to principle 6 of the Body of Principles, the term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time.

56. With regard to the other forms of isolation, there are two categories of situations: ordinary isolation and rigorous isolation. Ordinary isolation covers a wide variety of situations, which may be the result of measures which are taken for the benefit of the detainee or at his request or which are of a punitive nature:

> In the first category, isolation is intended to protect a detainee, either at his request, when he is the victim of vindictive acts by other detainees or is persecuted on racial or discriminatory grounds, or in order to avoid prison overcrowding;
>
> The second category includes temporary medical isolation, especially of sero-positive detainees in order to avoid possible contagion;

Detention in a "disciplinary" cell, in which isolation for a limited time is standard practice;

Isolation for the purposes of the investigation, in order to prevent contact among accused persons and to determine the truth.

57. "Rigorous" isolation involves measures which, depending on how restrictive they are, may resemble either sensorial isolation or ordinary isolation. In the first situation, no visits, mail, newspapers, books, radio, television, prison labour or exercise are allowed. In the second situation, isolation involves only some or even only one of these restrictions, which are also enforced more or less strictly. They include, for example, permission to take exercise but alone, permission to receive only one newspaper, a reduction in the frequency of visits, etc.

58. The question of characterization as cruel, inhuman or degrading treatment arises mainly in the first situation, especially when such isolation, which is intended to prevent social relations, even indirect ones, occurs during administrative detention. The prison authorities know that, during the entire period of judicial detention while the investigation is being conducted, the detainee's full attention is focused on his trial, whereas, in the case of administrative detention, the lack of any investigation or trial leads to passive and even depressive behaviour, especially when unlike judicial detention, no time limit had been set.

59. According to the information provided by non-governmental organizations, the members of the police and security forces in some countries may not be prosecuted for offences committed "in good faith" and some members of the security forces interpret this as licence to ill-treat prisoners in the exercise of powers granted to them under the state of emergency. In another country, there are no safeguards against possible abuses by officials who are in charge of political re-education camps and who often have no experience at all of prison administration or of judicial procedures, and there is no independent body to represent prisoners' interests.

60. The safeguards which would allow respect for the rights of administrative detainees to be effectively monitored include the following: a ban on solitary confinement; the right of detainees to visits by persons such as doctors, lawyers (see princs. 17, para. 1, and 18, paras. 1, 3 and 4, of the Body of Principles) and family members (princ. 19 of the Body of Principles); places of detention should be officially recognized as such and the name and place of detention of each person deprived of his liberty should be entered in a central register made available for consultation to the persons concerned, such as relatives; provisions expressly making confessions and other testimony obtained through torture or other treatment contrary to article 7 of the Covenant inadmissible; law enforcement officials must be given training and instruction so that they do not resort to such treatment.

F. Existence of remedies as an intangible right

61. In the ideal case, the law specifically provides for remedies. In jurisdictional terms, this generally takes the form of an application for habeas corpus or a recurso de amparo (sanctuary or mandamus). The other situations encountered lay within the category of control enforced by the competent authorities themselves (domestic remedies, periodic reviews,

certification of registers, communication of lists of detainees, etc.). The non-existence of a remedy, particularly the right to appeal to the courts, results from exclusion by a specific legislative provision, implicit exclusion (no remedy provided for) or suspension or delay, sometimes for several years, following the promulgation of a state of emergency.

62. International law recognizes that every administrative detainee has the right to take proceedings before a court. This right is, for example, provided for in article 9, paragraph 4, of the Covenant, which makes no distinction between administrative and judicial detention. On this important matter, the Inter-American Court of Human Rights has paved the way for great progress by international law in the protection of so-called "intangible" rights.

63. It will be recalled that article 27 of the American Convention on Human Rights (like art. 4 of the Convenant and article 15 of the European Convention on Human Rights) states that some rights are intangible in that, since any violation of them impairs the inherent dignity of the human being, they may not be restricted or limited in any way, even during a state of emergency. These are, for example, the rights which protect life, and include, for example, the prohibition on summary executions and on torture and all forms of cruel, inhuman or degrading treatment or punishment. These are, so to speak, "naturally" intangible rights because, as Mr. de Menthon pointed out in his closing statement during the Nürnberg Trial, it is the human condition itself that is harmed by such violations. However, in a recent advisory opinion, the Inter-American Court (Advisory Opinion No. OC-9/87 of 6 October 1985, requested by the Government of Uruguay 1/) considered that the minimum guarantees 2/ established to ensure respect for the rights which were declared naturally intangible should themselves be regarded as intangible "because of their purpose", as it were.

64. Since the present report has established that the practice of administrative detention, more than any other form of detention, leads to serious risks of the violation of the recognized intangible rights, even under a state of emergency, the rapporteur is of the opinion that the case law of the Inter-American Court should be studied in greater depth so that, for standard-setting purposes, it will be fully taken into account by international law.

65. Of course, these rules of procedure which are recognized as intangible "because of their purpose" would apply not only to administrative detention, but also to all other forms of detention. This seems to be the thrust of the position adopted by the Human Rights Committee which recalls, in its general comment 7 [16], that, even in situations of public emergency, the intangible provisions of the Covenant are non-derogable under article 4 (2), that it is not sufficient for the implementation of this article to prohibit such treatment or punishment or to make it a crime and that, under article 7, read together with article 2 of the Covenant, States must ensure an effective protection through some machinery of control. Complaints about ill-treatment must be investigated effectively by competent authorities and the alleged victims must themselves have effective remedies at their disposal, including the right to obtain compensation (see also princs. 33, paras. 1 to 4, 34 and 35 of the Body of Principles).

66. One non-governmental organization has indicated that, in some countries, the law authorizes detainees or victims to make use of such control procedures, although the latter are rarely automatic and depend in practice on the detainee's opportunities for contact with his relatives or a lawyer. It is difficult for the lawyer to challenge the detention, particularly if the authority in question has not specified the provision of the law under which the person is being detained or has not given any reasons for the person's detention, but bases its decision on the fact that the detainee might be a threat to State security. In such a case, the Government may regard the detention as secret, thus preventing any action by a lawyer or the courts, which cannot rule on the lawfulness of the detention. In some countries, the courts are not in a position to challenge the orders of a minister or the head of Government. A decision taken by the judge concerning the application for habeas corpus to order the release of a detainee may simply be ignored by the Government authority; in some cases, this authority may even immediately arrest the person again and place him in administrative detention once more.

67. Even if provision is made for administrative review of detention by a monitoring body, this body, which is usually appointed by the Government, is not really independent; it has only an advisory role and may make only non-binding recommendations, but it cannot order the detainee's release. If there is a closed court hearing, witnesses often cannot be called. In some countries, where the law does not provide for administrative detention or where legal provisions exist, but are not respected, persons are arrested and detained outside any legal framework without any possibility of a remedy.

68. The experience of what occurs in various parts of the world shows that the risk of ill-treatment is greater when the courts are not allowed to review detention orders issued by the executive. In this connection, one non-governmental organization has expressed concern about the adoption in one country of a decree under which a person may be held in prison for a period of two years in order to prevent him from acting in a way which will endanger security or the maintenance of order, without any possibility of being able to appeal that decision. Another organization also drew attention to the recent amendment of the national security act of one country under which no one may, in a court of law, challenge the lawfulness of a detention order against him.

G. Authorities empowered to admit remedies

69. A distinction has to be made according to whether or not the competent authority is a representative of the judicial authority.

Institutions with jurisdictional powers: in 10 countries, an appeal is lodged directly with the Supreme Court. In the other cases, the appeal is heard either by the ordinary courts or, particularly when a state of emergency is in force, by special courts - for the most part, military courts. In two cases, jurisdiction is conferred upon the Attorney-General of the Nation;

Institutions without jurisdictional powers may be either prominent persons (an ombudsman, mediator, etc.) or collegiate bodies (consultative commissions and commissions of inquiry or supervisory commissions, with or without permanent status). In one country, the complaint must be examined by the Council of Ministers.

H. Right to compensation in cases of illegal or arbitrary detention

70. In a few countries, the legislation provides for a system of compensation. Any such compensation is paid following an amicable settlement by the administration or is fixed by judicial decision. One country indicated to the rapporteur that the complainant must petition the President of the Republic. In some systems, where the State is not required to make reparation, the complainant must take action against the person or persons responsible for the allegations which led to the detention; hence it is often impossible to adduce proof. In other cases, the victim may be able to have compensation set in principle, without being able to obtain guarantees that it will actually be paid.

V. CIRCUMVENTION OF LEGAL PROCEDURES AND ABUSES

71. The information gathered reveals that far too many procedures are used to circumvent safeguards:

Issue of a new administrative detention order as soon as the previous one expires or has been annulled by a court;

Declaration of lack of jurisdiction by the civil courts on the grounds that the Government alone has jurisdiction over matters of national security;

Ratification of international instruments without taking the domestic legislative measures required by those instruments;

Judge prevented from visiting places of detention on the grounds of the secrecy of defence matters;

Continual transfer of detainees from one prison to another to prevent them from being traced;

A belated and summary charge is communicated to the party concerned, and to the judicial authority dealing with the case, shortly before it takes a decision on the application for habeas corpus;

Under some legislations, an appeal must be made against a formal administrative decision; however, the authorities refrain from making the arrest or detention formal, no informal decision is rendered and the appeal is thus automatically rejected as inadmissible for lack of a case.

72. In some instances, administrative detention orders have been issued by the authorities against persons accused of political offences after they have been acquitted by the courts. In other cases, prisoners who had served their sentence were kept in prison under administrative detention orders issued by the Government. Such practices show that the process of administrative detention may be of an arbitrary nature.

73. In many countries, relatives are either little informed, badly informed or not informed at all about the arrest or, if they are informed, they are not told where the place of detention is. The detainee has no automatic right to communicate with his family or lawyer and correspondence is frequently prohibited. In some countries, the right of detainees to communicate with a

lawyer or their families has been delayed, restricted or even denied for many years and other detainees have been kept in solitary confinement for periods of up to several months or even several years. In one country, the basic right of access to legal assistance has been contested by the Appellate Division in a decision dated July 1987. However, communication by detainees with the outside world and, in particular, their families, should not be denied for more than a matter of days (prin. 15 of the Body of Principles).

74. The indefinite extension of administrative detention, aggravated by the absence of prior notice to the person concerned, without his being heard and without any obligation to state the grounds for the decision, is a further source of abuse. In one country, there was a period when eight persons were detained under a decision taken following the proclamation of a state of emergency for periods ranging from 15 to 22 years, without any form of trial, on the grounds of their alleged involvement in an armed revolt in 1962. In another country, a former parliamentarian had been detained since 1966 under the internal security act. It is thus possible to detain persons, without any legal remedy, for periods as long or even longer than those prescribed by a court for a serious offence, with considerable psychological repercussions on the detainee. In some cases, detention is extended by the successive implementation of different legal provisions (for example, as is too frequently the case in some countries, by detaining the person under both an administrative order and a court order or by arresting him immediately after his release). Furthermore, prolonged detention of more than two or three weeks allows injuries to heal in the case of ill-treatment, thereby removing any evidence when the detainee appears before the judge.

75. In a formerly divided and now united country, an act relating to administrative detention in political re-education camps has been applied retroactively and more severely in a part of the national territory where it did not formerly apply, despite article 11, paragraph 2, of the Universal Declaration of Human Rights and article 15, paragraph 1, of the Covenant, which relate to the principle of the non-retroactivity of the laws, and have been ratified by the State in question.

76. The Human Rights Committee, the Commission on Human Rights and a non-governmental organization have a great deal of information on administrative detention that reveals the existence, in some countries, of psychological pressure (humiliation, verbal aggression, death threats or threats of violence against detainees or their families, etc.), ill-treatment, rape, torture sometimes resulting in death, disappearances and extra-legal executions. Incommunicado detention for periods which vary in length, but may be very long, facilitates such practices. The lack of regular medical check-ups, as well as of medical care during the first few days of detention, are probably a frequent cause of the death of some detainees. In the political re-education camps of one country, many persons are reported to have died from hunger, exhaustion resulting from forced labour, illness (malaria, tuberculosis), the denial of medical care, punishment and even summary executions. Reliable information received from a non-governmental organization describes abuses of administrative detention in circumstances which are all the more unlawful in that they involve the use of children as hostages to compel their parents to give up any political activity described as "hostile to the Government". Children are also occasionally arrested to force their parents or members of their family who are wanted by the police to

give themselves up. Children, and even sometimes babies, are detained together with their parents in order to compel the latter to confess to alleged political offences.

77. One Government informed the Rapporteur that it was aware of the abuses to which administrative detention could lead, even under normal circumstances. Consequently, it has undertaken a series of studies for the purpose of amending the relevant texts, in so far as far as possible to enhance the powers of the judiciary.

VI. RECOMMENDATIONS TO THE COMMISSION ON HUMAN RIGHTS AND CONCLUSIONS

A. Recommendations to the Commission on Human Rights

78. In resolution 1985/16, dated 11 March 1985, the Commission on Human Rights requested the Sub-Commission to make recommendations regarding the practice of administrative detention. On the basis of the foregoing, the rapporteur therefore makes the following recommendations:

(a) In view of the serious risk of violations of human rights involved in the practice of administrative detention and the fact that there is no United Nations procedure for monitoring all the situations in which administrative detention is practised, it is proposed that a special report on the development of all forms of administrative detention throughout the world should be submitted each year to the Commission for its consideration. In that case, the matter should be considered by the Sub-Commission not under the agenda item relating to the adoption of its report, but under the agenda item entitled: "The administration of justice and the human rights of detainees";

(b) It would be desirable, particularly in order to facilitate the rapporteur's task, to continue to consider any such practices which might be brought to the attention of the Centre for Human Rights and to gather information on the conditions in which they seem to be applied to new categories of persons deprived of their liberty, such as persons who may be suffering from communicable diseases (quarantine) and persons who, in some countries, are allegedly detained in specialized health centres where their illness is diagnosed (AIDS, for example);

(c) Particular attention should be paid to administrative detention by the Special Rapporteurs on summary executions, torture and states of emergency, as well as by the Working Group on Enforced or Involuntary Disappearances and the Working Group on the Question of Persons Detained on the Grounds of Mental Ill-health or Suffering from Mental Disorders, as well as by any other relevant monitoring or investigative body of the United Nations system;

(d) The rapporteur should be invited, if necessary with the support of the United Nations advisory services in the field of human rights, to make every effort so that, pursuant to General Assembly resolution 43/173, the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment becomes generally known and respected, especially by law enforcement officials. In that connection and in order to ensure the full effectiveness of principles 9 and 32 concerning recourse to a judicial or other authority and following the example of the Inter-American Human Rights Court (Advisory Opinion OC-9/87, dated 6 October 1985), the rapporteur should carry out an in-depth study, with a view to submitting proposals to the

Commission on Human Rights, of the conditions under which the right to a remedy such as habeas corpus or any other similar remedy could be declared intangible.

B. Conclusions

79. This would establish a system for the protection of the main sectors at risk that would consist of:

Special reports on the protection of intangible rights (prohibition of enforced disappearances, torture and summary executions);

Special reports on tangible rights that are extremely likely to be violated on account of the "limitations or restrictions" accepted in a "democratic society". This would be the case of the proposed special report on administrative detention which would supplement the already existing report on states of emergency or the report by the Special Rapporteur on the exercise of freedom of opinion and expression which the Sub-Commission intends to propose. At present, the consideration of the question of the protection of the human rights of persons subject to any form of administrative detention is not covered by any specific control procedure.

Notes

1/ The Government of Uruguay put the following questions to the Court:

(a) What judicial guarantees must remain in force during a state of emergency?

(b) Do the guarantees listed in the last sentence of article 27, paragraph 2, refer only to measures to protect the rights in question?

(c) Since the state of emergency very often involves the suspension of certain procedural guarantees, what happens in the case of the principle of the exhaustion of local remedies?

2/ Such minimal guarantees are, for example habeas corpus, and the recurso de amparo.

Annex I

SOURCES OF INFORMATION

A. Governments which have provided information to the rapporteur

Belize	17 May	1988
Bolivia*	18 April	"
Burundi*	16 July	"
Cameroon*	10 March	1989
Chad*	11 April	1988
China*	20 July	"
Colombia*	15 April	"
Cyprus*	10 June	"
Czechoslovakia*	27 June	"
Denmark	15 April and 3 June	"
Dominican Republic*	28 April	"
El Salvador	23 August	"
Finland*	22 April	"
Guatemala	28 April and 5 May	"
Madagascar	17 June	"
Malawi	13 May	"
Malta*	29 April	"
Mauritius	27 April	"
Mexico*	8 June	"
Morocco	20 May	"
Niger*	29 March	"
Nigeria*	20 June	"
Peru	25 May	"
Philippines*	12 and 25 May	"
Portugal	29 June	"
Qatar	22 June	"
Sri Lanka*	25 April	"
Sweden*	18 May	"
Turkey*	6 April	"
Uganda*	14 September	"
Venezuela*	29 August	"
Yugoslavia*	5 September	"

* Governments which have also provided detailed information on their legislation.

B. States whose legislation the Rapporteur has consulted

Afghanistan
Albania
Algeria
Angola
Argentina
Australia
Austria

Belgium
Brazil
Bulgaria
Burma

Canada
Chile
Congo

Ecuador

France

Gambia
German Democratic Republic
Greece

India
Indonesia
Iraq
Ireland
Islamic Republic of Iran
Israel
Italy

Japan
Jordan

Kenya
Kuwait

Lao People's Democratic Republic
Lesotho
Libyan Arab Jamahiriya

Malaysia
Mozambique

Namibia
Nepal
Netherlands
Nicaragua

Pakistan
Paraguay
Poland

Romania
Rwanda

Singapore
Socialist Republic of Viet Nam
South Africa
Spain
Sudan
Swaziland
Switzerland
Syrian Arab Republic

Thailand
Tunisia

Union of Soviet Socialist Republics
United Kingdom of Great Britain
and Northern Ireland
United Republic of Tanzania
United States of America
Uruguay

Zaire
Zambia
Zimbabwe

C. Competent United Nations bodies which have provided information to the Rapporteur

Office of the United Nations High Commissioner for Refugees (UNHCR)	5 April	1988
United Nations University (UNU)	8 April	"

D. Specialized agencies

International Labour Organisation (ILO)	14 April	1988
World Health Organization (WHO)	19 April	"
United Nations Educational, Scientific and Cultural Organization (UNESCO)	8 April	"

E. Other intergovernmental organizations

Inter-American Commission on Human Rights (OAS)	18 April	1988

F. Non-governmental organizations in consultative status with the Economic and Social Council

Amnesty International	17 June	1988
International Association of Democratic Lawyers	26 April	"
Law Association for Asia and the Pacific (LAWASIA)	8 March and 14 April	"
International Centre of Sociological, Penal and Penitentiary Research and Studies	12 May	"
International Commission of Jurists	28 April, 9 June, 14 and 25 July	"
International Institute of Humanitarian Law (IIHL)	4 March	"
Liberty International	23 March	"
League of Red Cross and Red Crescent Societies	29 March	"
Organization of African Trade Union Unity	10 March	"
International Society of Social Defence	13 June	"

G. Other non-governmental organizations concerned and other sources of information

1. Other organizations

Asia Watch	1 August	1988
League for Human Rights and Freedoms	13 April	"
Minnesota Lawyers International Human Rights Committee	13 April	"
University of Houston	1 June	"
Consejo General de la Abogacia Española	3 November	"

2. Other sources of information

(a) Documents from other non-governmental organizations gathered outside the consultancy procedure

Amnesty International:

Annual Reports.

States of emergency and violations of the right to life, July 1988, POL 30/02/88, 33 p.

Administrative detention, POL 30.1.88, SF 88 CO 299.

International Commission of Jurists: "States of emergency, their impact on human rights, questionnaire on states of exception and administrative detention", 1983, pp. 394-410.

Inter-Parliamentary Union: Reports of the Committee on Human Rights of Parliamentarians (1986 to 1989).

International Federation of Human Rights: "Rapport de mission. Japon: La garde à vue", February 1989, pp. 19-20.

Ligue des droits de l'homme: Hommes et libertés, No. 54, "Centres de rétention", France, p. 25.

Maison des Droits de l'homme de l'Université de Paris X, "Les violations des droits de l'homme au Viet-Nam depuis 1975", symposium organized by the Khanh Anh Buddhist Association under the auspices of the Maison des Droits de l'homme, 18 February 1989.

(b) Documents of relevance transmitted by the following organizations: International Law Association; Comisión de Derechos Humanos de la Asociación de Médicos, Odontólogos y Profesionales Afines de la Caja de Seguro Social; Latin American Federation of Associations of Relatives of Disappeared Detainees; Helsinki Watch; Procedural Aspects of International Law Institute; Regional Council on Human Rights in Asia; Syndicat des Avocats de France.

(c) Specialized publications

Alderson, J. Human rights and the police. Strasbourg, Council of Europe, 1984. 207 p.

Burns M. Yvonne. To police the police: some thoughts on the appointment of a police ombudsman for South Africa. The Comparative and International Law Journal of Southern Africa, vol. XIX, No. 2, July 1986.

United Nations. Seminar on amparo, habeas corpus and other similar remedies, Mexico, 15-28 August 1961. New York, 1963. 116 p. (ST/TAO/HR/12).

United Nations. Seminar on judicial and other remedies against the abuse of administrative authority. Buenos Aires, 31 August - 11 September 1959. New York. 66 p.

Decisions and reports: Inter-American Court of Human Rights. Habeas corpus in emergency situations, Advisory Opinion No. OC-8/87. Human rights law journal, pp. 94-104, vol. 9, 1988.

Harold, Rudolph. The Judicial Review of Administrative Detention Orders in Israel. Israel Yearbook on Human Rights, pp. 148-182, vol. 14, 1984. Published under the auspices of the Faculty of Law, Tel Aviv University.

Makhoba, P. P. Nape, S. Jele, A. Coleman and M. Rice. The experience of detention. Human Rights Quarterly, pp. 17-49, vol. 10, No. 1, February 1988.

Rodley, Nigel. The Treatment of Prisoners under International Law, Paris, UNESCO, Oxford, Clarendon Press, 1987.

Reynaud, A. Les droits de l'homme dans les prisons. Directorate of human rights, Council of Europe, Strasbourg.

Screvens, Raymond. Les situations d'urgence et la police: sauvegarde de l'ordre public et des droits de l'homme. Revue de droit pénal et de criminologie, No. 4, avril 1988.

United Nations. Seminar on judicial and other remedies against the abuse of administrative authority, organized by the United Nations in co-operation with the Government of Sweden. Stockholm, 12-25 June 1962. New York, 1962.
Shimon Shetreet. A Contemporary Model of Emergency Detention Law: an assessment of the Israeli law. Israeli Yearbook on Human Rights, pp. 182-221, 1984.

INTERNATIONAL INSTRUMENTS OF RELEVANCE TO ADMINISTRATIVE DETENTION WITHOUT CHARGE OR TRIAL

A. Table showing the pertinent provisions of the main international instruments of relevance

	Universal Declaration of Human Rights	International Covenant on Civil and Political Rights	Standard Minimum Rules for the Treatment of Prisoners	European Convention on Human Rights	African Charter on Human and Peoples' Rights	American Declaration of the Rights and Duties of Man	American Convention on Human Rights	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
Right to liberty and security	Art. 3	Art. 9-1		Art. 5-1	Art. 4, 6	Art. 1	Art. 5-1 Art. 7-1	
No arrest without charge	Art. 9	Art. 9-1		Art. 5-1	Art. 6	Art. 25	Art. 7-2 7-3	
Liberty of movement	Art. 13-1	Art. 12			Art. 12-1	Art. 8		
Presumption of innocence	Art. 11	Art. 14-2	Art. 84-2	Art. 6-2	Art. 7-1(b)	Art. 26	Art. 8-2	Princ. 36-1
Right to be informed		Art. 9-2 Art. 14-3(a)	Art. 35, 36, 92	Art. 5-2 Art. 6-3(a)			Art. 7-4	Princs. 10, 11-2 12, 13, 14
Right to be heard by a court	Art. 10	Art. 2-3(b), 9-3		Art. 5-3	Art. 7	Art. 25	Art. 7-5	Princ. 11-1
Remedies	Art. 8	Art. 2-3(a), 9-4	Art. 35, 36	Art. 5-4	Art. 7			
Compensation							Art. 7-6 Art. 25-1	Princs. 9, 30-2 32, 33
Restrictions provided for by law		Art. 4, 12-3						Princ. 35-1
Contact with the outside world			Art. 37, 92					Princs. 15, 16, 19, 17-1, 29-2

B. List of other relevant international instruments

Code of Conduct for Law Enforcement Officials of 1979

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984

Geneva Conventions of 12 August 1949 relative to the protection of victims of war, and Additional Protocols I and II of 1977

Organization of African Unity Convention of 1969 governing the Specific Aspects of Refugee Problems in Africa

International Labour Organisation Conventions No. 29 of 1930 concerning Forced Labour and No. 105 of 1957 concerning the Abolition of Forced Labour

European Convention on Extradition of 1957

Convention relating to the Status of Refugees of 1951 and Protocol relating to the Status of Refugees of 1967

Declaration on the Rights of Disabled Persons of 1975

Declaration on the Rights of Mentally Retarded Persons of 1971

Declaration of Basic Principles of Practice for Victims of Crime and Abuse of Power

Set of Minimum Principles for the Treatment of Detained Persons (resolution (73) 5 of the Committee of Ministers of the Council of Europe, Committee of Ministers, cf. 4th preliminary observation).

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

Safeguards guaranteeing protection of the rights of those facing the death penalty of 1984

Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1982.

Resolution 17 (XXXI) of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees entitled "Problems of extradition affecting refugees" and resolution 44 (XXXVII) entitled "Detention of refugees and asylum-seekers".
